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In re Application of:	:	
MARTINS, Andre, Luis, et al.	:	DECISION ON REQUEST UNDER
U.S. Application No.: 10/549,404	:	37 CFR 1.497(d)
PCT No.: PCT/BR2004/000029	:	
International Filing Date: 12 March 2004	:	
Priority Date: 13 March 2003	:	
Attorney's Docket No.: 04304/0203376-US0	:	
For: SYSTEM AND PROCESS FOR	:	
DETECTING A LOAD OF CLOTHES	:	
IN AN AUTOMATIC LAUNDRY	:	
MACHINE	:	

This decision is issued in response to the "Response To Notification Of Defective Response And Petition Pursuant To 37 CFR 1.497(d) To Correct Inventorship" filed 27 November 2006. Applicant has filed the required \$130 processing fee.

BACKGROUND

On 12 March 2004, applicants filed international application PCT/BR2004/000029. The application claimed a priority date of 13 March 2003, and it designated the United States. On 23 September 2004, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 13 September 2005. The published international application identified a corporate applicant for all states other than the U.S., and three applicant/inventors for the U.S.: Andre Luis MARTINS, Thomas Carsten GROSS, and Jorge Luiz Benine PENTEADO.

On 12 September 2005, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 27 April 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an oath or declaration under 37 CFR 1.497 and \$730 in additional fees were required.

On 26 June 2006, applicants filed a response to the Notification Of Missing Requirements. The response included payment of the \$730 in additional fees required, and a

declaration that identified, and was executed by, only two of the three inventors of record: Andre Luis MARTINS and Jorge Luiz Benine PENTEADO.

On 25 August 2006, the DO/EO/US mailed a “Notification Of Defective Response” (Form PCT/DO/EO/916) indicating that the declaration was defective for failure to include the third inventor of record, Thomas Carsten GROSS.

On 27 November 2006, applicants filed the “Response To Notification Of Defective Response And Petition Pursuant To 37 CFR 1.497(d) To Correct Inventorship” considered herein (with required five-month extension fee). The submission requests removal of Thomas Carsten GROSS as an inventor of record, pursuant to 37 CFR 1.497(d).

DISCUSSION

Where, as here, the filed declaration names a different inventive entity than that identified in the international application, 37 CFR 1.497(d) requires applicant to submit: (1) a statement from each person being added or removed as an inventor that any error in inventorship in the international application occurred without deceptive intent; (2) the processing fee; (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (in the form required by 37 CFR 3.73(b)), and (4) any new oath or declaration required by paragraph (f) of 37 CFR 1.497(d) (it is noted that item (4) does not apply to the present application).

Applicant here has submitted the required statement from the deleted inventor, Thomas Carsten GROSS. Item (1) is therefore satisfied.

The submission was accompanied by payment of the \$130 processing fee. Item (2) is therefore satisfied.

Regarding item three, applicant has submitted a document entitled “Assent Of Assignee” which states that: (1) MULTIBRAS S.A. ELECTRODOMESTICOS is the “assignee of the entire right, title and interest” in the present application; and (2) that the assignee consents to the removal of Thomas Carsten GROSS as an inventor herein. Two persons identified as “Directors” executed the statement of consent; pursuant to their titles, these Directors have apparent authority to sign on behalf of the assignee (see MPEP section 324(V)). However, pursuant to 37 CFR 1.497(d)(3), the consent of the assignee must be submitted in compliance with 37 CFR 3.73(b) (see MPEP section 201.03(II)(D)). Here, the statement executed by the assignee does not comply with the requirements of 37 CFR 3.37(b)(1). Specifically, the assignee does expressly state that “the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation” or that “documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).” Because the assignee has not properly established ownership pursuant to 37 CFR 3.73(b), the statement of consent submitted here cannot, on the present record, be accepted in satisfaction of this requirement. Item (3) is therefore not satisfied.

Based on the above, the present record does not satisfy all the requirements for correction of the inventorship under 37 CFR 1.497(d).

CONCLUSION

Applicant's request to correct inventorship under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

Thomas Carsten GROSS remains an inventor of record herein. Accordingly, the declaration filed 26 June 2006, which fails to include this inventor, remains defective for failure to properly identify the inventors of record.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)" and must include the materials required to satisfy item (3) of a grantable request, as discussed above (i.e., a submission properly establishing the assignee's ownership in the form required by 37 CFR 3.73(b)).

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a)

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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